IN THE HIGH COURT OF BOMBAY AT GOA

P.I.L. WRIT PETTITION NO.251 OF 2003

Shri Rui Judas Rodrigues,
New Vaddem,
Vasco-da-Gama,Goa ... PETITIONER

VERSUS

1. State of Goa;

2. The Director,
Institute of Psychiatry
& Human Behaviour,
Panaji,Goa ... RESPONDENTS.

Mr. Arun B. D'Sa, Advocate for the Petitioner.

Mr. A.N.S. Nadkarni, Advocate General, with Mr. H.D. Naik, Addl. Government Advocate, for the State.

CORAM : F.I. REBELLO &
P.V. HARDAS,JJ.

DATED : JULY 9, 2003.

ORAL JUDGMENT (Per F.I. REBELLO,J.)

Rule. Heard forthwith.

2. The Petitioner was a patient receiving treatment in the O.P.D. of I.P.H.B. The grievance of the Petitioner was that a Resident Doctor prescribed that he be injected by the injection Clopixol Depot when he had been there for treatment on 1st April 2003. The same initially was not administered to him on the ground that such

an injection could not be injected without the consent of Dr.(Mrs.) H.A. Borkar. It is his case that for the last two years he has greatly benefited by the same and Dr. Borkar was not present to discuss the problem at that time. On account of that he and his family were put to great trouble. He has made representations to the Respondents.

In the course of the proceedings the Court received another representation by one Sushant Kalangutkar that his sister Miss P. Kalangutkar was admitted in the Institute of Psychiatry and Human Behaviour (I.P.H.B.) Altinho, in January 2001 and after being admitted she was started on injection Clopixol Depot. That was given to her every month and since then she has been well. On 28-6-2003 his sister was given prescription by a Resident Doctor. However, the injection was not available in I.P.H.B. It is also his case that many important drugs are not available in I.P.H.B. Hospital. It was his further case that when his sister was admitted in I.P.H.B., his mother who is old asked for a private room but was not given the same although at that time there were private rooms available at the Hospital at Altinho and because of this she had to

sleep on the floor.

3. In response to the Notice issued to the Respondents on behalf of the State Government and I.P.H.B., an Affidavit was filed by Dr. V.G. Dhume who is presently working as Dean, Goa Medical College, Goa and as Director of Institute of Psychiatry and Human Behaviour. It is set out that the patients attending O.P.D. of I.P.H.B. are classified in two categories: New Cases and the other Follow-up/Old Cases. The procedure on admission is then set out as also the procedure for follow-up/old cases. It is then explained that the case files are distributed amongst the Resident Doctors and the Consultants in the O.P.D. General as per the request made by the relatives of the patients or the patients. It is then set out that if an injection is to be given in I.P.H.B. the same is recorded in the case-paper by the examining Doctor. The treatment is then administered and the records are maintained in the Medicine Register. The admission and the discharge of the patients in the I.P.H.B. are followed as per the Guidelines given in the Memorandum of 1987. The Petitioner visited the I.P.H.B. as new case at O.P.D. on 27-7-2001 and thereafter he visited as a follow-up case. He was also admitted in the Hospital on

27-3-2001 to 27-4-2001. The Petitioner had visited the Hospital on many occasions and the injection Clopixol Depot was given as recommended to the Petitioner. In respect of the specific incident on 1-4-2003 it is set out that the O.P.D. medicine book maintained by the Sister shows that the Petitioner was given injection Clopixol Depot on 1-4-2003. It is therefore contended that the contention of the Petitioner that he was not administered the injection is not correct considering the records maintained. Subsequent follow-up treatment also shows that the Petitioner was administered injection Clopixol Depot. It is then explained that the Petitioner had made also representations based on which explanation was called for from the concerned Doctor (Mrs.) H.A. Borkar. She had given explanation and that she had not issued any instructions to O.P.D. Sisters that injection Clopixol Depot cannot be given without her instructions. It is therefore contended that there is no merit in the Petition and accordingly, it should be rejected.

4. Dr. (Mrs.) H.A. Borkar has also filed her Affidavit. She sets out that from the records which she has examined it is found that the Petitioner was injected Clopixol Depot in the

O.P.D. on 1-4-2003 itself with 2cc disposable syringe and as such, the allegation made by the Petitioner was not correct. It is further contended that she has given no instructions to the O.P.D. Nurse not to administer the injection. She has explained her absence on 1-4-2003.

5. The Petitioner filed rejoinder in which he has annexed a letter dated 20th April 2002 by Doctor (Mrs.) Borkar as In-Charge of Wards No.1 and 5 and Female Closed Wards. In that it is set out that Order is being issued issued for strict compliance so that any patients who have been prescribed injection Clopixol Depot in the Wards under Unit II must be injected only after she grants approval in her own handwriting. Similar instructions have been issued on 17-8-2003 to the Ward Sisters in Wards No. 4 and 7 for strict compliance. In answer to those documents, it is pointed out that injection Clopixol Depot has adverse effects and the adverse effects of the said injection have been sought to be explained. It is also set out that explanation was sought from Dr.(Mrs.) Borkar and she has forwarded her reply. In the Affidavit it is set out what Dr.Borkar explained was that another Doctor was using the injection Clopixol Depot without giving any

consideration to the possible adverse effects, when it is used in combination with either Haloperidol or similar antipsychotic drugs. The explanation given has been dealt with. It is then explained that instructions given were not in respect of O.P.D. but to the Wards referred to in the said instructions. The additional Affidavit by Dr. Dhume deals with the grievance made by Sushant Kalangutkar. It is admitted that on that date the injection was not available for reasons set out therein. It is also explained that in January 2001 the Hospital was shifted from Altinho to Bambolim. The I.P.H.B. presently has no accommodation for private rooms and that facility would be available only when 2nd phase of I.P.H.B. Complex is ready. It is then set out that instructions have been issued to all the concerned staff of the I.P.H.B. clearly mentioning that any instructions pertaining to administration of drugs or otherwise or any policy matters of management of patients in Wards or O.P.D. would be or can be issued only by Director of I.P.H.B. and none else.

6. Considering the explanation given on behalf of the Respondents, it is not necessary to further proceed with the matter except by issuing certain directions so that such incidents do not

happen hereafter. What emerges from the Affidavits is basically that there is some rivalry between the Doctors attached to I.P.H.B. Respondents to ensure that whatever differences amongst the medical staff should not reflect on administering the necessary medical facilities to the patients either in the O.P.D. or in the Wards.

7. In the light of that, while accepting the Affidavit of Dr. V.G. Dhume, we direct that hereafter any instructions in the policy matter of management of O.P.D./Wards in the Institute of Psychiatry and Human Behaviour can only be issued by the Director of I.P.H.B. and no one else. It is further directed that steps be taken to ensure that medicines are available before they get exhausted so that the needy patient is administered the same and considering the nature of the treatment that they get timely medical assistance.

With the above directions, we dispose of this Petition. Rule made partly absolute in terms of page 7, paragraph 7. There shall be no order as to costs.

P.V. HARDAS,J. **F.I. REBELLO,J.**